

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

Vantage Financial Services, Inc.
Plaintiff

v.

Nonprofit Service Group, Inc. and George E.
Miller
Defendants

CIVIL ACTION NO. 04-11686-WGY

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed.R.Civ.P. 56 and Local Rule 56.1, defendants Nonprofit Service Group, Inc. and George E. Miller ("Defendants") move for summary judgment in their favor on all counts included in the complaint of plaintiff Vantage Financial Services, Inc.'s ("Vantage").¹ In support of this motion, Nonprofit and Miller rely on the following grounds:

1. Vantage's common law claims for breach of contract (Count I), negligence-legal malpractice (Count II), fraudulent misrepresentation (Count III), and negligent misrepresentation (Count IV) are barred by the three-year statute of limitations applicable to legal malpractice and misrepresentation claims.

2. Vantage's remaining claim for violation of M.G.L. c. 93A (Count V) fails as a matter of law since Defendants' alleged conduct is not actionable under c. 93A.

3. Vantage's claims fail in their entirety since, by its own admission, it has not suffered any damages as a result of any alleged act or omission by Defendants.

¹ Pursuant to the Court's order dated July 19, 2005, the deadline for filing summary judgment was extended ninety (90) days up to and including October 30, 2005.

4. In further support of this motion, Nonprofit and Miller rely on the accompanying Memorandum of Law, Rule 56.1 Statement of Undisputed Facts, and the Affidavits of Willard E. Fawcett, Jr. and Ralph Semb.

WHEREFORE, the Court should enter summary judgment in Defendants favor on all counts.

REQUEST FOR ORAL ARGUMENT

Defendants Nonprofit Service Group, Inc. and George E. Miller request a hearing on the above motion.

Respectfully submitted,

Nonprofit Service Group and
George E. Miller,
By their attorneys,

/s/ Matthew J. Griffin

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LOCAL RULE 7.1 CERTIFICATION

I, Matthew J. Griffin, certify that I conferred with Neil Bingham, counsel for plaintiff Vantage Financial Services, Inc., on September 26, 2005 and have attempted in good faith to resolve or narrow the issues that are the subject of this motion.

/s/ Matthew J. Griffin
Matthew J. Griffin